

Item No. 9

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SAN DIEGO REGIONAL
WATER QUALITY
CONTROL BOARD

April 25, 2005
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FOLEY & LARDNER LLP
ATTORNEYS AT LAW

402 W. BROADWAY, SUITE 2300
SAN DIEGO, CA 92101-3542
619.234.6655 TEL
619.234.3510 FAX
www.foley.com

WRITER'S DIRECT LINE
619.685.6413
srosenbaum@foley.com EMAIL

CLIENT/MATTER NUMBER
051976-0101

John Robertus, Executive Officer
Attn: Frank Melbourn
Regional Water Quality Control Board, San Diego Region
9174 Sky Park Court, Suite 100
San Diego, CA 92123

10-3020478.02:melbf

10-3021382.02:melbf

**Re: Settlement Offer for Administrative Civil Liability ("ACL")
Complaint Nos. R9-2005-0107 & R9-2005-0108; Fieldstone
Communities, Inc. and Florida Southchase, L.P. (Morro Hills Site)**

Dear Mr. Robertus:

This law firm represents Florida Southchase, L.P. and Fieldstone Communities, Inc. (the "Owners") in matters related to water quality issues concerning the project called Morro Hills (the "Site") in Oceanside, California. On March 17, 2005, the Owners were issued ACLs from the Regional Water Quality Control Board, San Diego Region (the "Regional Board"). During an April 11, 2005 inspection of the Site, Regional Board staff recommended a number of additional improvements that if the Owners agreed to implement would justify a staff recommendation to reduce the combined fines in the ACL to \$262,500 plus Regional Board expenses and terminate the Cleanup and Abatement Order. On April 12, 2005, the Owners waived the 90-day limit for the Regional Board to take action on the ACL to facilitate settlement discussions and take necessary actions at the Site that would justify a staff recommendation to approve a settlement offer. Based on helpful input from Regional Board staff, the Owners hereby make the attached settlement offer and request the Regional Board approve it following the required public notice. Owners will endeavor to provide Regional Board staff with the information detailed in the settlement offer in advance of the deadline to help Regional Board staff assess whether to recommend the Regional Board accept the settlement offer.

Morro Hills Settlement Offer

1. Owners have waived the 90-day time limit for the Regional Board to conduct a formal hearing on the ACLs.
2. No later than May 30, 2005, the Owners will submit a Habitat Impact Assessment Report containing the following:
 - a. An identification of any impacts from the alleged discharges in the CAOs to the habitat west of Vandegrift Blvd., the Waters of the State, or the Waters of the United States, with the exception of the on-site habitat known as the "Gun-range Habitat;"

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WEST PALM BEACH

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b. A determination of whether any impacts identified above in 2(a) are temporary or permanent; and

c. A recommended restoration plan for any permanent impacts identified in 2(b).

3. Owners commit to comply with State Board Order No. 99-08-DWQ, NPDES General Permit No. CAS000002, Waste Discharge Requirements for Discharges of Storm Water Runoff Associated with Construction Activity (the "Stormwater Construction Permit") now and in the future at all existing and future construction sites within the State of California.

4. No later than June 15, 2005, the Owners will submit a Final Technical Report containing the following to document their commitment to complying with the Stormwater Construction Permit:

a. Photo documentation of improvements made to the grading contractor's temporary fuel storage unit identified by Regional Board staff during an April 11, 2005 inspection of the Site;

b. Photo documentation of progress on the maintenance of the desilting basins identified by Regional Board staff during an April 11, 2005 inspection of the Site.

c. A map of the anticipated property ownerships at the Site on or about September 1, 2005;

d. A map of the proposed BMPs to be deployed prior to commencement of the 2005-2006 rainy season (October 1, 2005);

e. A schedule for implementing the proposed BMPs described in 4(d);

f. A description of the comprehensive program to ensure installation and maintenance of the proposed BMPs described in 4(d);

g. A description of the Standard Operating Procedures for merchant builders' contractors regarding treatment of Owners' BMPs;

h. A description of the Standard Operating Procedures for Owners' contractors regarding treatment of Owners' BMPs;

i. A description of measures taken to ensure Owners' employees, Owners' contractors, merchant builders' employees, and merchant builders' contractors are properly trained to install and maintain BMPs; and

j. A request that the Executive Officer of the Regional Board terminate the CAO.

5. Upon the Regional Board's ratification of the settlement offer at the June 8, 2005 Regional Board meeting, the Owners will tender at the meeting a cashiers check for \$262,500 made

payable to the California State Water Resources Control Board for deposit in the State Water Pollution Cleanup and Abatement Account in complete and final settlement of ACL Complaint Nos. R9-2005-0107 & R9-2005-0108 and violations of the California State Water Resources Control Board Order No. 99-08-DWQ, NPDES General Permit No. CAS000002, Waste Discharge Requirements for Discharges of Storm Water Runoff Associated with Construction Activity from July 19, 2004 through March 10, 2005.

6. Upon the Regional Board's ratification of the settlement offer at the June 8, 2005 Regional Board meeting, the Owners agree to waive their rights to petition the settlement to the State Board.

7. Within ten (10) days of receipt of an itemized bill for the Regional Board costs incurred pursuant to CAO Nos. R9-2005-0033 & R9-2005-0044 (currently estimated at \$16,000), the Owners will remit payment as directed on the receipt.

8. Within ten (10) days of the Regional Board's receipt of the Final Technical Report, the Executive Officer will deliver written notification that CAO Nos. R9-2005-0033 & R9-2005-0044 have been officially terminated.

9. Owners will publish the following notice in the North County Times no later than May 1, 2005, notifying the public of a 30-day review period and soliciting public comments on the terms of the settlement:

Settlement of Administrative Civil Liability (ACL) Orders against Fieldstone Communities, Inc. and Florida Southchase, L.P.

The California Regional Water Quality Control Board, San Diego Region (Regional Board) will consider settlement of ACL Orders against Fieldstone Communities, Inc. and Florida Southchase, L.P. issued pursuant to section 13385 of the California Water Code based upon ACL Complaint Nos. R9-2005-0107 and R9-2005-0108 for violations of the California State Water Resources Control Board Order No. 99-08-DWQ, NPDES General Permit No. CAS000002, Waste Discharge Requirements for Discharges of Storm Water Runoff Associated with Construction Activity from July 19, 2004 through March 10, 2005.

Fieldstone's and Florida Southchase's Morro Hills construction site is located in the City of Oceanside, within the Regional Board's jurisdiction. Pursuant to a settlement, Fieldstone and Florida Southchase will pay \$262,500 to the State Water Pollution Cleanup and Abatement Account.

Written public comments regarding the settlement of ACL Complaint Nos. R9-2005-107 and R9-2005-108 will be accepted from May 3, 2005 through June 2, 2005. A public hearing is schedule to be held at the Regional Board's June 8, 2005 meeting at the Regional Board Office located at 9174 Sky Park Court, Suite 100, San Diego, California. Oral comments will be accepted at the meeting that will begin at 9:00a.m.

April 25, 2005

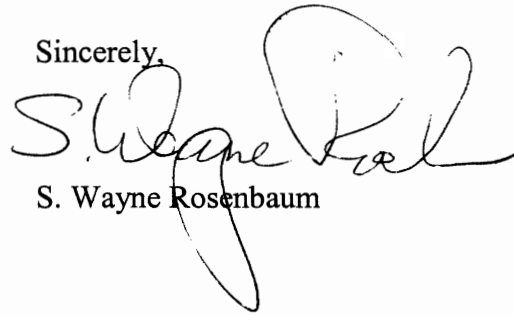
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For more information regarding this public hearing, and documentation related to these matters call the Regional Board office at (858) 467-2952 or visit the Regional Board web site at <http://www.waterboards.ca.gov/sandiego/>.

John H. Robertus
Executive Officer
California Regional Water Quality Control Board, San Diego Region
May 1, 2005

Please do not hesitate to contact me with any questions or concerns regarding this settlement offer.

Sincerely,

A handwritten signature in black ink, appearing to read "S. Wayne Rosenbaum". The signature is fluid and cursive, with a large loop at the end.

S. Wayne Rosenbaum

SWR/jwf

CC: John Robertus
Chris Means